THE HON'BLE SRI BILAL NAZKI,
THE ACTING CHIEF JUSTICE
AND
THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

WRIT PETITION Nos.24120, 24121, 24131 and 24137 of 2007

Dated: 15-11-2007

Between:

M/s.Concast Ferro Inc.
Unit of Dankuni Steels Limited,
Dusi Village, Amadalavalasa Mandal,
Srikakulam District.

...Petitioner

and

1.The Commercial Tax Officer,
Rajam Circle, Srikakulam District and another.

...Respondents

THE HON'BLE SRI BILAL NAZKI,
THE ACTING CHIEF JUSTICE
AND
THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

WRIT PETITION Nos.24120, 24121, 24131 & 24137 of 2007

Dated: 15-11-2007

Common Order: (Per The Hon'ble Sri Bilal Nazki, The Acting Chief Justice)

Since the subject matter involved in these Writ Petitions is common and the parties being same, they are being disposed of by a Common Order.

Heard the learned Counsel for the parties. With their consent, the Writ Petitions are being disposed of at this stage.

These Writ Petitions are filed against show cause notices dated 27-08-2007 and revised show cause notices dated 23-10-2007 for the assessment years 2004-05 and 2005-06 issued by the first respondent-Commercial Tax Officer.

The main grievance of the petitioner as projected by the learned senior Counsel is that these show cause notices are based on a report of the second respondent-Regional Vigilance & Enforcement Officer, who is not a statutory Authority in terms of the relevant Act.

But the learned Government Pleader submits that under the various Acts, the Regional Vigilance & Enforcement Officer has been given authority to enter the business premises of the assessee, inspect, search, seize and confiscate the assessed goods.

The learned Counsel for the petitioner further submits that the report of the second respondent-Regional Vigilance & Enforcement Officer goes in such a language that it appears as if the conclusions drawn by him are binding on the first respondent-Commercial Tax Officer. Therefore, even if the petitioner replies to the show cause notices, the results can be foreseen and the first respondent-Commercial Tax Officer would follow the conclusions drawn by the second respondent-

Regional Vigilance & Enforcement Officer.

We do not think that on such apprehension these Writ Petitions can be entertained because we expect that the first respondent-Commercial Tax Officer would only look into the facts, allegedly discovered by the second respondent-Regional Vigilance & Enforcement Officer, in the light of the reply to be given by the petitioner and frame his own conclusions. On questions of law, we expect that the first respondent-Commercial Tax Officer will not take into consideration any opinion of the second respondent-Regional Vigilance & Enforcement Officer without framing his own opinion in accordance with law based on the material placed by the petitioner and the second respondent-Regional Vigilance & Enforcement Officer before him and also any other material available on record.

With the above observation, the Writ Petitions are disposed of. However, the petitioner is granted one week further time to file his objections in response to the impugned show cause notices. No costs.

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(Bilal Nazki, A.C.J)

Dated 15th November, 2007

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(Ramesh Ranganathan, J)

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